

19-2042MB

AFFIDAVIT OF BORDER PATROL AGENT CRYSTAL R. ALICEA

Your affiant, Crystal R. Alicea, Border Patrol Agent of the United States Border Patrol, being duly sworn, does depose and state the following:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Border Patrol Agent with the United States Border Patrol (USBP) permanently assigned to Sonoita, Arizona and detailed to Tucson, Arizona with the Prosecutions Unit. I have been an agent with the USBP since March 17, 2008 with a brief stint at the Office of Field Operations as an Officer. I completed the USBP Academy in June, 2008, where I received instruction in constitutional law, immigration law, criminal law, and federal and civil statutes. I have also received instruction in the detection, interdiction, and arrest of narcotics smugglers, alien smugglers, and aliens illegally present in the United States (U.S.).

2. I have previously been detailed to the Current Operations Team (COT), as well as the Horse Patrol Unit (HPU) at the Brian A. Terry (NCO) Border Patrol station in Bisbee, Arizona. While on COT, I planned operations, tracked cases, gathered intelligence, and wrote after-action reports. While on HPU, I worked normal agent duties on horseback with a partner. I was involved in many apprehensions of alien and narcotics smugglers. I presented cases for prosecution and wrote reports. I have also been a processing supervisor at NCO, overseeing the processing of alien smuggling and illegal re-entry cases.

3. In April 2018, I began my detail at Tucson Sector Prosecution Unit as a case agent. As a case agent, I have conducted investigations involving illicit activity and have gathered and structured evidence and facts pertaining to administrative and criminal cases. I have taken sworn statements from material witnesses and suspects. I routinely perform record checks through various law enforcement databases to establish accuracy of information as well as to gather facts further relevant to a respective case. I have acted as

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a liaison between the United States Attorney's Office and field agents, and I have assisted fellow agents in the development of their cases.

4. The statements contained in this affidavit are based on information provided by fellow Border Patrol Agents and based on my experience as a Border Patrol Agent and Customs Officer within U.S. Customs and Border Protection (CBP). Since this affidavit is submitted for the limited purpose of securing a search warrant, I have not included all facts known to me regarding this investigation. I have set forth facts that establish probable cause to believe that the suspect/defendant referred to in this investigation conspired with other known and unknown individuals, wherein they jointly facilitated, either verbally or electronically, the movement of illegal aliens into and within the United States. This affidavit is intended to show only that there exists sufficient probable cause for the requested warrant and does not portray all of my knowledge about this matter.

5. Your Affiant submits this affidavit in support of an Application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of the contents of an electronic communication device capable of accessing the internet (the Target Phone(s), defined below), and the extraction from the Target Phone(s) of electronically stored information further described in Attachment B hereto. Because this affidavit is being submitted for the limited purpose of securing a warrant to search the Target Phone(s), your Affiant has set forth only the facts which your Affiant believes are necessary to establish probable cause to search the Target Smartphone.

IDENTIFICATION OF THE DEVICE TO BE EXAMINED

6. The property to be searched consists of one cellular phone. The cellular phone to be examined is an I Phone X with serial number: G6TXW5K9KPHG (hereinafter, the "Target Phone"). The Target Phone is currently stored in the Evidence Storage Facility at TCA (Tucson Sector) that is maintained by the Evidence Collection Team (ECT). The

Target Phone to be searched pursuant to the attached Application is further described in Attachment A hereto.

7. The requested warrant would authorize the forensic examination of the Target Phone for the purpose of identifying electronically stored data to include: any telephone numbers, including but not limited to numbers called, numbers stored for speed dial, pager numbers, names and addresses, electronically stored voice and text messages, calling card numbers, text messages, photos, videos and/or identifying information that may be stored in the memory of the Target Phone, as more fully described in Attachment B.

PROBABLE CAUSE

8. Over the course of multiple field encounters and alien smuggling arrests, since April 18, 2019, Border Patrol Agents assigned to the Casa Grande, Arizona Border Patrol Station Intelligence Unit identified an alien smuggling coordinator utilizing phone number 623-522-3792 but going by several different monikers.

9. The most recent encounter took place on June 13, 2019 when a subject was arrested attempting to smuggle aliens through the checkpoint near North Komelik, Arizona on the Tohono O'Odham Indian Reservation. During a post arrest interview, the subject, Abisai SERRANO, consented to a search of his cellular phone. SERRANO admitted to utilizing the WhatsApp application to coordinate the smuggling of aliens from the Sells area to Phoenix, Arizona. SERRANO showed agents message strings utilizing the WhatsApp messaging application from 623-522-3792 who SERRANO stated was the alien smuggling coordinator.

10. Agents identified the subscriber to phone number 623-522-3792 as Jesus Ronaldo CASTILLO-Hernandez, a Cuban national who entered the United States in 2015.

11. On June 14, 2019, agents learned from passenger records that CASTILLO boarded a plane for Cuba.

12. On June 25, 2019 CASTILLO returned from Cuba and was inspected by Customs Officers at the Fort Lauderdale International Airport (FLL). During inspection, CASTILLO was asked if he was in possession of a cell phone to which he replied, "no." CASTILLO was then asked to empty his pockets which revealed an iPhone X (Target Phone). CASTILLO stated that the Target Phone did not work, but then voluntarily presented his phone for inspection along with the phones passcode.

13. During the basic border search of the Target Phone, the number 623-522-3792 was entered into the phone, at which point it was determined to be the number assigned to CASTILLO's phone saved as the "casa" (home) number for "RONALDO."

14. A subsequent border search of the Target Phone revealed numerous photos and videos of narcotics, many appearing to be crystal meth. The Target Phone also contained photos of weapons/firearms along with cameras and radios on hilltops in what appeared to be desert/border areas. Text messages were also discovered which showed conversations with various other phone numbers discussing where and when to cross the U.S./Mexico border to avoid U.S. Government Officials. In additional, several text messages were discovered regarding narcotic sales and distributions and housing arrangements for human smuggling.

15. Based on my training and experience as a Border Patrol Agent, and the facts in this affidavit, communication devices such as cellular phones allow Alien Smuggling Organizations (ASO) members to communicate with each other, foot guides, load vehicle drivers, scouts and illegal aliens in order to coordinate precise actions within the smuggling event. Cellular devices allow persons to conduct surveillance on law enforcement while alerting the conspiring parties to continue their criminal acts without notice by patrolling law enforcement. Load drivers routinely utilize cellular devices to communicate with coordinators who will tell them where to transport the illegal aliens further into the interior of the United States. The load drivers are provided precise times, locations and instructions via

cellular devices as their windows of opportunity to load the illegal aliens into their vehicles are very narrow on the US/Mexico border due to the high presence of law enforcement.

16. On June 25, 2019, the Target Phone was seized at FLL and turned over to Agents from the Dania Beach, Florida Border Patrol Station. On June 27, 2019 the phone was shipped via UPS with a tracking number to the ECT at TCA. The Target Phone has been stored in such a manner that its contents, to the best of my knowledge, are in substantially the same state as when it first came into possession of the USBP.

17. Wireless telephone: A wireless telephone (or mobile telephone or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.

TECHNICAL TERMS

18. Digital camera: A digital camera is a camera that records pictures and video as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually

be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos. Most cell phones currently manufactured contain digital cameras as a standard feature.

19. Portable media player. A portable media player (or "MP3 Player" or iPod) is a handheld digital storage device designed primarily to store and play audio, video or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock or games. Most cell phones currently manufactured contain portable medial players as a standard feature.

20. Internet: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state. Most cell phones currently manufactured allow the use of the Internet as a standard feature. Further, most current cell phones allow the user to transmit electronic messages via standard email services or specially designed communication applications between parties.

21. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device; evidence of where such persons were when they possessed or used the device; evidence of who such persons were with when they possessed or used the device; evidence of persons with whom they communicated when they possessed or used the device; evidence of text, email, other electronic messaging applications and voice mail communications between the person who possessed or used the device and others. Navigational coordinates may also be transmitted to and/or from these devices to determine the user's location through a GPS application.

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

22. Based on my knowledge, training and experience, I know that electronic devices such as the Target Phone in this case, can store information for long periods of time. Similarly, things that have been viewed via or uploaded to the Internet are typically stored for some period of time on the device. Additionally, computer files or remnants of such files can be recovered even if they have been deleted. This is because when a person "deletes" the information on an electronic device, the data does not actually disappear, rather, the data remains on the storage medium until it is overwritten by new data. Information described in this affidavit can often be recovered by forensic computer experts using forensic tools and software.

23. As further described in this affidavit and Attachment B, this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the Target Phone was used, where they were used, the purpose of their use, who used it, and when. There is probable cause to believe that this forensic electronic evidence will be on the Targets Phone is more fully set forth in the factual section contained herein and because:

A. Data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file, including frequency channels, text messages, video, or photographs.

B. Forensic evidence on a device can also indicate who has used or controlled the devices. This “user attribution” evidence is analogous to the search for “indicia of occupancy” while executing a search warrant at a residence.

C. A person with appropriate familiarity of how an electronic device works may, after examining the forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, and when.

D. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

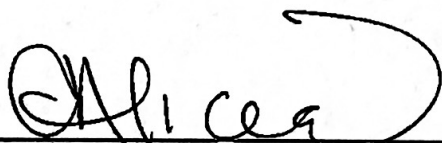
E. Further, in finding evidence of how a device was used, the purpose of its use, who used it, when and where, sometimes it is necessary to establish that a particular thing is not present on a storage medium, for example, the absence of the entry of a name in a contact list as evidence that the user(s) of the Target Phone did not have a relationship with the party.

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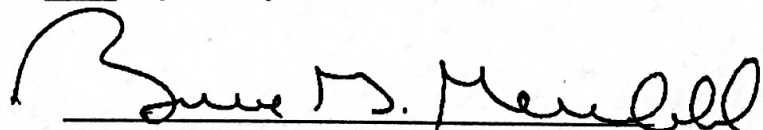
CONCLUSION

24. Based on the foregoing information, there is probable cause to believe that the Target Phone contains evidence related to the smuggling of illegal aliens for profit within the United States. The examination of the Target Phone may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant. Because this warrant only seeks permission to examine devices already in the possession of the Border Patrol, the execution of this warrant does not involve the physical intrusion onto a premises. Consequently, there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night. I submit that this affidavit supports probable cause for a search warrant authorizing the examination of the Device described in Attachment A to seek the items described in Attachment B.



Crystal R. Alicea, Border Patrol Agent
United States Border Patrol

Subscribed and sworn to before me this 2 day of July, 2019:



BRUCE G. MACDONALD
United States Magistrate Judge
District of Arizona